

§ 756.9 Claims by employees.

(a) *Personal injury or death of citizens or permanent residents of the United States employed anywhere, or foreign nationals employed within the United States.* Compensation is provided by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901-950) for employees of NAFI's who have suffered injury or death arising out of and in the course of their employment (5 U.S.C. 8171). That Act is the exclusive basis for Government liability for injuries or deaths that are covered (5 U.S.C. 8173). A claim should first be made under that Act if there is a substantial possibility the injury or death is covered.

(b) *Personal injury or death of foreign nationals employed outside of the continental United States.* Employees who are not citizens or permanent residents, and who are employed outside the continental United States, are protected by private insurance of the NAFI or by other arrangements (5 U.S.C. 8172). When a nonappropriated-fund activity has neglected to obtain insurance coverage or to make other arrangements, the matter shall be processed as a Foreign Claims Act or a Military Claims Act claim if appropriate, and any award will be paid from nonappropriated-funds.

PART 757—AFFIRMATIVE CLAIMS REGULATIONS

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AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 939, 5013, and 5148; E.O. 11476, 3 CFR, 1969 Comp., p. 132; 32 CFR 700.206 and 700.1202.

SOURCE: 57 FR 5072, Feb. 12, 1992, unless otherwise noted.

Subpart A—Property Damage Claims

§ 757.1 Scope of subpart A.

Subpart A describes how to assert, administer, and collect claims for damage to or loss or destruction of Government property through negligence or wrongful acts.

§ 757.2 Statutory authority.

(a) *General.* With the exception of MCRA claims, all affirmative claims for money or property in favor of the United States shall be processed in accordance with the Federal Claims Collection Act (31 U.S.C. 3711). Department of Defense Directive 5515.11¹ of 10 December 1966 delegates to the Secretary of the Navy, and designees, the authority granted to the Secretary of Defense under the Federal Claims Collection Act.

(b) *Statute of limitations.* There is a 3-year statute of limitations on affirmative Government tort claims pursuant to 28 U.S.C. 2415(b).

§ 757.3 Regulatory authority.

The regulations published in 4 CFR chapter II control the collection and settlement of affirmative claims. This section supplements the material contained in those regulations. Where this section conflicts with the materials and procedure published in 4 CFR chapter II, the latter controls.

§ 757.4 Claims that may be collected.

(a) *Against responsible third parties for damage to government property, or the property of nonappropriated-fund activities.* It should be noted, however, that as a general rule, the Government does

¹Copies may be obtained if needed, from the Commanding Officer, U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

not seek payment from servicemembers and Government employees for damages caused by their simple negligence. Exceptions to this general policy will be made when the incident involves aggravating circumstances.

(b) *For medical costs from third party payers in accordance with 10 U.S.C. 1095.* These claims are asserted and collected by the medical treatment facilities under the coordination of benefits program.

(c) *For money paid or reimbursed by the government for damage to a rental car in accordance with the Joint Federal Travel Regulations (volume 1, paragraph U 3415-C and volume 2, paragraph C 2101-2).* Collection action shall be taken against third parties liable in tort. Collection action shall not be taken against Government personnel who rented the vehicle.

(d) *Other claims.* Any other claim for money or property in favor of the United States cognizable under the Federal Claims Collection Act not specifically listed above.

§ 757.5 Assertion of claims and collection procedures.

(a) *General.* The controlling procedures for administrative collection of claims are established in 4 CFR part 102.

(b) *Officials authorized to pursue claims.* The following officers are authorized to pursue and collect all affirmative claims in favor of the United States:

(1) The Judge Advocate General; the Deputy Judge Advocate General; any Assistant Judge Advocate General; and the Deputy Assistant Judge Advocate General (Claims and Tort Litigation); and

(2) Commanding officers of Naval Legal Service Offices and applicable Detachments, except Naval Legal Service Offices in countries where another service has single service responsibility in accordance with DOD Directive 5515.8.²

(c) *Dollar limitations.* All of the officers listed in § 757.5(b) are authorized to compromise and terminate collection

action on affirmative claims of \$20,000.00 or less.

(d) *Determining liability.* Liability must be determined in accordance with the law of the place in which the damage occurred, including the applicable traffic laws, elements of tort, and possible defenses.

(e) *Assertion of a claim.* (1) Assertion of the claim is accomplished by mailing to the tortfeasor a "Notice of Claim." The notice is to be mailed certified mail, return receipt requested, and should include the following information:

(i) Reference to the statutory right to collect;

(ii) A demand for payment or restoration;

(iii) A description of damage;

(iv) The date and place of the incident; and

(v) The name, phone number, and office address of the claims personnel to contact.

(2) See also 4 CFR part 102.

(f) *Full payment.* When a responsible party or insurer tenders full payment or a compromise settlement on a claim, the payment should be in the form of a check or money order made payable to the collection activity, such as the "Commanding Officer, Naval Legal Service Office, (Name)." The check or money order shall then be forwarded to the disbursing officer serving the collecting activity for deposit in accordance with the provisions of the Navy Comptroller Manual.

(g) *Installment payments.* See 4 CFR 102.11 for specific procedures. In general, if the debtor is financially unable to pay the debt in one lump sum, an installment payment plan may be arranged. Installment payments will be required on a monthly basis and the size of payment must bear a reasonable relation to the size of the debt and the debtor's ability to pay. The installment agreements should specify payments of such size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than \$50.00 per month should be accepted only if justified on the grounds of financial hardship or for some other reasonable cause. In all installment arrangements, a confession

²See footnote 1 to § 757.2.